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May 21, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Memorandum of Ex Parte Communication

EX PARTE OR LATE FILED

Ms. Magalie Salas
Secretary
Federal Communications Commission
445 12th Street, S. W.
Street Lobby – TW A235
Washington, D.C. 20554

Dear Ms. Salas:

Re: *May 18, 1999 Letter from Lawrence Strickling to Dale Robertson
Regarding the Separations Treatment of ISP-Bound Traffic
CC Docket No. 99-68, Inter-Carrier Compensation for ISP-Bound Traffic
in the Matter of 1999 Price Cap Revisions*

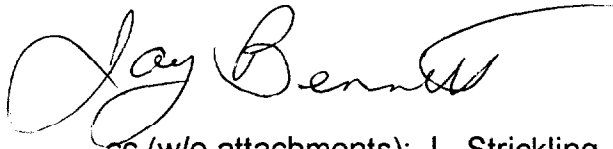
On Thursday, May 20, 1999, Mr. Zeke Robertson and the undersigned representing SBC met with Mr. Larry Strickling, Mr. Ken Moran, Mr. Bill Bailey and Ms. Tamara Preiss to discuss the Common Carrier Bureau's letter dated May 18, 1999 regarding the separations treatment of ISP-Bound traffic. The attached materials were distributed during the meeting.

The Common Carrier Bureau's directive to SBC to reclassify the traffic-sensitive costs associated with 1997 and 1998 ISP-bound traffic to the intrastate jurisdiction for separations and reporting purposes was discussed. SBC continues to believe such assignment is in conflict with the Commission's existing separations rules. Under protest, SBC will comply with the directives contained in the May 18, 1999 Bureau letter while seeking full Commission review of the directives contained in the letter. It was agreed that the revenue requirement analysis to be directed to Mr. Moran will be provided by June 1st for SWBT and by June 4th for Pacific Bell and Nevada Bell and that the updated ARMIS data will be filed as soon thereafter as it can be completed. Specific filing dates for the revised ARMIS data will be established through discussions between Mr. Moran and SBC representatives in the near future.

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We are submitting the original and one copy of this Memorandum to the Secretary in accordance with Section 1.1206 of the Commission's rules. Please stamp and return the provided copy to confirm your receipt. Please contact me at (202) 326-8889 should you have any questions.

Sincerely,

A handwritten signature in black ink, reading "Jay Bennett". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

cc (w/o attachments): L. Strickling, K. Moran, B. Bailey, T. Preiss

Jurisdictional Assignment of Internet Traffic

- In January of 1998, the SBC's Telcos notified the FCC that, pursuant to the Commission's Rules and Orders and *as the systems were put into place to identify traffic*, the associated costs of the end-user to end office Internet traffic would be assigned to the *interstate* jurisdiction.
- Prior to 1998, these costs – not discretely identifiable and much smaller at the time – were assigned to the state jurisdiction.
- SBC has been deploying measurement equipment in its network to identify Internet traffic. SBC has spent \$10 Million to deploy the necessary equipment. The equipment was developed by an independent vendor and is generally available.
- As it is identified by the SBC Telcos, originating end user ISP bound traffic, in compliance with long standing FCC precedent and in compliance with FCC Docket No. 96-98 (para. 10 through 20), is assigned to the interstate jurisdiction.
- At its own initiative, SBC provided the FCC with information regarding this assignment of ISP traffic on numerous occasions. (See Attachment 1.)
- Following receipt of SBC's letter of January 20, 1998, in February of 1998, the FCC requested additional details, but took no other action.
- Because of the systems capability to measure ISP traffic, the ARMIS reports filed in 1997 reported this assignment. The FCC never requested that the SBC Telcos refile any of its 1997 reports as the result of this assignment.
- Throughout 1998, SBC initiated numerous meetings with the FCC to provide details of the systems it was deploying, how this traffic was being identified, how the assignment was made and Ex Partes were filed with the Commission.
- The FCC's Declaratory Ruling in CC Docket No. 96-98 directed the costs of the central office to ISP connections to the state jurisdiction (para. 36) and the SBC Telcos have been doing this. The FCC's action did not address the end user ISP bound traffic and costs.
- The SBC Telcos¹ (Southwestern Bell Telephone Company, Nevada Bell and Pacific Bell) are assigning and reporting the ISP bound traffic, costs and revenues in compliance with Part 36 of the FCC's Rules and Regulations ("Separations Manual") and the FCC's Orders.² For example, 36.125(a)(3) through (5) states that the interstate allocation factor for local switching is the ratio of the interstate Dial Equipment Minutes ("DEM") to the total DEM (i.e., switched usage). Therefore, if the traffic is interstate in nature, then the minutes of use should be counted as interstate.
- Specifically, the SBC Telcos, in compliance with long-standing FCC determinations and in compliance with the Declaratory Ruling in CC Docket No. 96-98 (para.36), released February 26, 1999, have been accounting for ISP connection costs and revenues as intrastate. (See Attachment 2.)

¹ Only one SBC Telco, SNET, does not currently have the systems capability to identify ISP traffic.

² The statement in 4FCC Rdc 3983, 3987-88 (1989) that ESP traffic "is classified as local for separations purposes" was simply a recognition that, prior to the availability of measurement capabilities to segregate this traffic, it would be assigned by existing separations procedures to intrastate local because of its dialing pattern. This was not a finding that ESP traffic should be treated as local by Part 36 procedures.

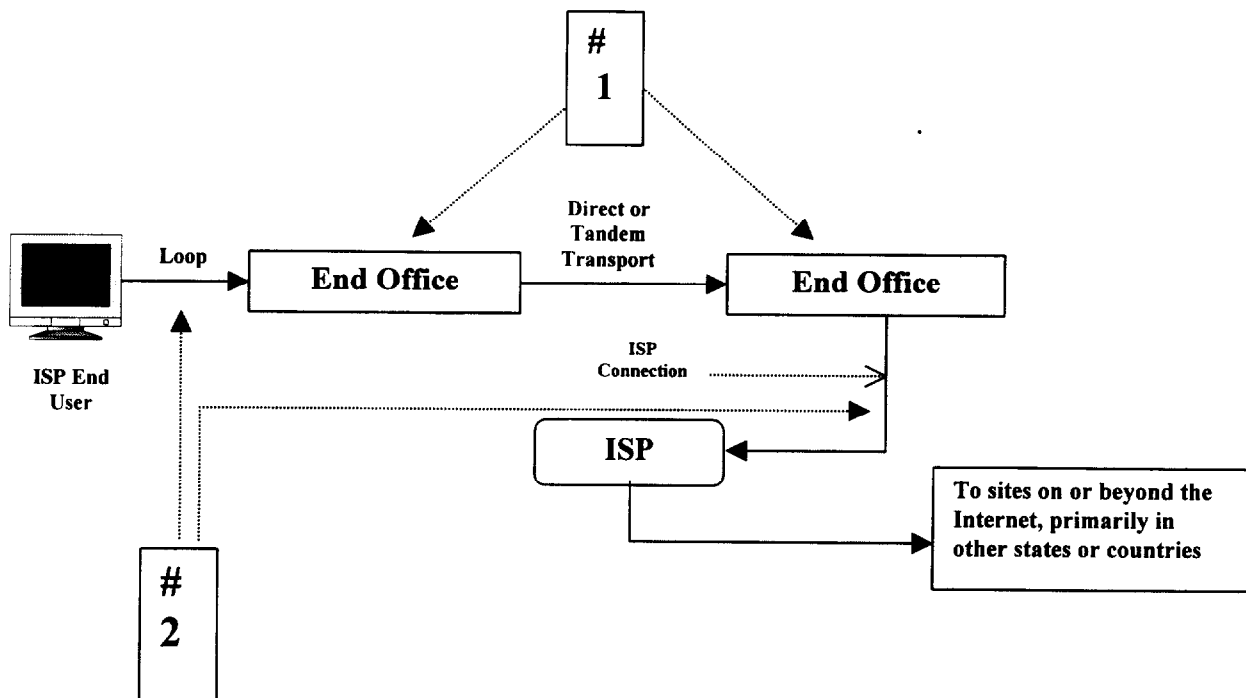
Jurisdictional Assignment of Internet Traffic
*Summary of SBC's Telcos' Correspondence, Information and
 Ex Partes filed with the FCC*

January 20, 1998	SBC Telcos initiate letter to FCC to advise of assignment of Internet Traffic for 1997 reporting purposes.
February 23, 1998	SBC responds to FCC's letter of February 12, 1998 and provides detailed information regarding SBC's assignment of ISP traffic
March 2, 1998*	SBC met with members of staff from the Accounting Safeguards Division and the Competitive Pricing Division to provide further explanation and information concerning SBC's jurisdictional assignment of ISP traffic
March 25, 1998*	SBC provided case order citations and additional information to the FCC regarding the appropriateness and principles underlying SBC's approach.
April 29, 1998*	SBC provided the Commission with information regarding reciprocal compensation involving ISPs and CLECs.
May 1, 1998	The SBC Telcos filed their annual ARMIS reports with footnotes disclosing the jurisdictional assignment of ISP traffic to interstate.
May 8, 1998*	SBC provided the FCC with a binder of information addressing ISP Internet usage, including the jurisdiction of ISP usage.
May 13, 1998*	In separate meetings, SBC met with Deputy Chief of the Common Carrier Bureau, Office of Plans of Policy and staff members from the Accounting Policy and Competitive Pricing Divisions to discuss the materials filed on May 8, 1998 and SBC's approach to the assignment of ISP traffic.
May 15, 1998*	SBC responded to the FCC's questions concerning the materials filed on May 8, 1998.
May 20, 1998*	SBC met with a member of the Joint Board to discuss the impact of growing ISP usage.
May 28, 1998*	SBC discussed issues surrounding ISP usage and again explained to the FCC the measurement procedures used by SBC to identify and assign ISP traffic.
May 29, 1998*	SBC met with a member of the Joint Board to discuss the impact of growing ISP usage.
June 2, 1998* and June 3, 1998*	SBC discussed issues surrounding ISP usage and again explained to the FCC the measurement procedures used by SBC to identify and assign ISP traffic.
September 1, 1998	SBC initiated a follow up letter to update the information provided in its February 23, 1998 letter to the FCC
April 12, 1999 and April 27, 1999	In connection with CC Docket No. 99-68, "Inter-Carrier Compensation for ISP-Bound Traffic," SBC filed comments describing how internet traffic and the associated costs was being measured and assigned as interstate (pp. 24-25). SBC explained that as it deploys measurement capabilities, SBC assigned the traffic to the interstate jurisdiction as required by the Commission's Declaratory Ruling and Part 36 of the FCC's Rules.

* Indicates date SBC filed the Ex Parte with the Secretary of the Commission.

Jurisdictional Assignment of Internet Traffic

Attachment 2



#1.

As defined by the Separations Rules and Orders, local switching and associated transport are usage sensitive and assigned to the jurisdiction based upon usage. With the placement of newly designed equipment in the SBC Telco's offices, all circuit traffic can be identified and measured, thus, providing more accurate usage factors.

#2.

Pursuant to the Separations Rules and Orders, the loop and ISP connection are treated as a subscriber message loop. The costs are assigned as follows: 75% Intrastate and 25% Interstate. Subscriber message loop costs are recovered for the most part via the price for basic service and the price of the EUCL.